

PT 95-56

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use  
Educational Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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CHICAGO TITLE & TRUST CO., )  
AS TRUSTEE OF TRUST NO. ) Docket # 92-16-1525  
1096423, DATED NOVEMBER 26, ) Parcel Index # 07-13-101-003-0000  
1991, AMERICAN ACADEMY OF ) (Cook County)  
DERMATOLOGY, INC., BENEFICIARY )  
Applicant )  
THE DEPARTMENT OF REVENUE ) George H. Nafziger  
OF THE STATE OF ILLINOIS ) Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Attorney Terrence J. McConville appeared on behalf of the American Academy of Dermatology, Inc. (hereinafter referred to as the "applicant").

SYNOPSIS: The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on November 22, 1994, to determine whether or not Cook County parcel No. 07-13-101-003-0000 and the building thereon, should be exempt from real estate tax for the 1992 assessment year.

Mr. Lawrence E. Rosenthal, deputy executive director of the applicant, was present at the hearing, and testified on behalf of the applicant

The first issue in this matter includes whether the applicant qualified as a school, pursuant to 35 ILCS 205/19.1, during the 1992 assessment year. The second issue is whether the applicant owned the parcel here in issue and the building thereon, during the 1992 assessment year. The last issue is whether the applicant used the parcel here in issue and the building thereon, for school purposes during the 1992 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant did not qualify as a

school during the 1992 assessment year. It is further determined that the applicant did own the parcel here in issue and the building thereon, for real estate tax purposes during the period January 14, 1992, through December 31, 1992. Finally, it is determined that the applicant did not use the parcel here in issue and the building thereon, as a school during the 1992 assessment year.

FINDINGS OF FACT:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcel here in issue and the building thereon, did not qualify for exemption during the 1992 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 6B.

2. On July 2, 1993, the Cook County Board of Appeals transmitted a Certification of Exemption request, concerning this parcel and the building thereon, for the 1992 assessment year, to the Department (Dept. Ex. No. 2).

3. On February 17, 1994, the Department denied the exemption of this parcel and the building thereon, for the 1992 assessment year (Dept. Ex. No. 3).

4. On February 25, 1994, the then attorney for the applicant requested a formal hearing in this matter (Dept. Ex. No. 4).

5. The hearing which was held in this matter on November 22, 1994, was held pursuant to that request.

6. The applicant was incorporated in the State of Minnesota on November 1, 1961, for purposes which included the following:

"The corporation is organized and shall be operated exclusively for charitable, scientific, literary, or educational purposes."

7. The applicant was authorized to do business in Illinois, pursuant to the "General Not for Profit Corporation Act of Illinois, on December 15, 1976.

8. On January 14, 1992, the parcel here in issue was conveyed to the Chicago Title & Trust Co. as trustee of Trust No. 1096423, dated November 26, 1991.

9. The applicant is the holder of 100% of the beneficial interest in that trust.

10. The applicant, with a membership of over 9,000, represents virtually all of the practicing dermatologists in the United States.

11. During 1992, the applicant's primary sources of income were membership dues, publication subscriptions, fees, and royalties for publications, annual meeting registration fees, continuing education fees, and course sales.

12. Out of a total income of \$9,179,216.00, the contributions received by applicant, during 1992, totaled \$47,500.00.

13. The dues to belong to the applicant were \$450.00 per year, for residents of the United States and Canada, and \$225.00 per year for nonresidents of the United States and Canada.

14. The bylaws of the applicant provided that the Board of Directors could waive dues. However, no evidence was offered concerning when or if the board did, in fact, waive or reduce dues.

15. Applicant's Exhibit 2 is a floor plan of the building on this parcel. Listed in red on this floor plan, are the names of the various departments.

16. The number circled in red under the name of each department is the number of employees in that department.

17. There is a department of education which works on the educational activities of the applicant for the practicing physicians.

18. The department of communication develops the public-based educational materials.

19. The marketing department sees to the production and distribution of

the public-based educational materials.

20. The department of meetings plans the applicant's meetings for the members.

21. The administrative services department is responsible for the building and filling requests from practicing physicians and the public.

22. The department of finance keeps the financial records of the applicant.

23. The association management department provides management services to the dermatology subspecialty groups.

24. The membership services department works directly with the membership and the medical education programs.

25. The executive department is the administration of the applicant.

26. The professional relations department handles the interaction of applicant with the other medical associations.

27. The IS department is the computer services department.

28. Finally, there is the socioeconomic practice department, which assists practicing dermatologists in dealing with changes in health reform.

29. The employees of the applicant then may be classified in three categories.

30. The first category is general administration, consisting of the finance department, seven employees; administrative services department, seven employees; the executive department, five employees; and the IS department, five employees.

31. The second category is public information and education, consisting of the communications department, six employees; and the marketing department, four employees.

32. The third category includes the departments dealing with the membership and their problems, including the education department, three employees; the meetings department, eight employees; the association

management department, seven employees; the membership service department, four employees; the professional relations department, two employees; and finally, the socioeconomic practice department, six employees.

33. To summarize then, there are 24 employees involved in general administrative activities, 10 employees involved in public information and education, and 30 employees handling activities, concerning the practicing physician members of the applicant.

34. The lower level of the building, during 1992, contained a media library of scientific information concerning dermatology, which is made available to the applicant's members and the general public, upon request.

35. The continuing medical education activities of the applicant, during 1992, included the continuing education courses and symposia at the applicant's annual meeting held December 5, 1992, through December 10, 1992. Those programs at the annual meeting ranged from one and one-half hours to two days in length.

36. There also was a two-day conference on environmental hazards to the skin, sponsored by the applicant.

37. The applicant also prepared and made available to the membership certain home study courses.

38. The Journal of the American Academy of Dermatology included six self assessment tests, and 12 continuing medical education courses during 1992.

39. The applicant also, during 1992, sold a twelve-issue audio cassette presentation of Dialogues for Dermatology, which was a home study course. Each tape ran for one hour, to one and one-half hours.

40. During 1992, the applicant also prepared and sold four continuing medical education video tape programs on current topics, as well as two basic science slide and tape study courses.

41. In addition to its continuing medical education activities for the

membership, the applicant also provided a continuing medical education transcript service to the membership to assist them in relicensure in their home states.

42. For the practicing physician members, the applicant published a marketing and practice management newsletter and a quarterly clearing house of clinical and academic positions in the field which were available.

43. To the general public, the applicant issued press releases, and provided short tapes on topics of interest to about 585 radio stations each month, as well as sending monthly column material to high school newspapers, corporate newspapers and hospital community outreach publications.

44. In May of each year, the applicant sponsors National Melanoma/Skin Cancer Detection Month, with news releases and free skin cancer screening sessions conducted by volunteers from the membership.

45. The applicant also distributed materials and programs of public interest to school children.

46. Based on the foregoing, I find that the parcel here in issue and the building thereon, were owned by Chicago Title & Trust Co., Trust No. 1096423, dated November 26, 1991, during the period January 14, 1992, through December 31, 1992.

47. The applicant held 100% of the beneficial interest in that trust during the period January 14, 1992, through December 31, 1992.

48. The applicant, during 1992, published a medical journal and various periodicals.

49. The applicant also put on continuing medical education courses at its annual meeting, and also conducted medical conferences.

50. The applicant prepared and published written and taped home study continuing medical education courses, which it sold to its members during 1992.

51. Said medical education seminars and courses and home study courses ranged from an hour up to two days in length.

52. While said courses were recognized for continuing medical education credit, no evidence was offered that any of said courses qualified for credit by any recognized medical school.

53. The applicant does not administer medical specialty exams, and does not accredit hospitals.

54. The applicant does maintain a transcript service for the continuing medical education courses taken by its members for state relicensing purposes.

55. The applicant also prepared and published various print and audio documents and media presentations to newspapers, radio stations, and schools, to be disseminated to the general public.

56. The applicant's continuing medical education courses and home study courses, I find, do not constitute a systematic course of study.

57. No evidence was offered that applicant's continuing medical education courses significantly reduced the burdens of government.

58. I find that applicant's primary sources of income, during 1992, were membership dues, publication subscription fees, and royalties for publications, annual meeting registration fees, continuing education fees, and course sales, and charitable contributions.

59. Finally, I find that during the 1992 assessment year, the primary beneficiaries of the applicant's activities were its dues-paying members, who received the opportunity to take the continuing medical education courses to help them maintain their state licensure as well as other benefits, including help in building and maintaining their medical practices.

60. While the applicant did conduct certain activities which were of benefit to the general public, I find that these were merely incidental.

CONCLUSIONS OF LAW: Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.1 exempts certain property from taxation in part as follows:

"...and including the real estate on which the schools are located...not leased by such schools or otherwise used with a view to profit,...."

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956); *Milward v. Paschen*, 16 Ill.2d 302 (1959); and *Cook County Collector v. National College of Education*, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. *People ex rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1944) and *People ex rel. Lloyd v. University of Illinois*, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967); *Girl Scouts of DuPage County Council, Inc. v. Department*, 189 Ill.App.3d 858 (2nd Dist. 1989); and *Board of Certified Safety Professionals v. Johnson*, 112 Ill.2d 542 (1986).

The Supreme Court, in applying the language of Article IX, Section 6, of the Illinois Constitution concerning schools, to the provisions of Section 19.1 of the Revenue Act of 1939, (now 35 ILCS 205/19.1), has over the years developed a two-part test.



In *People ex rel. McCullough v. Deutsche Gemeinde*, 249 Ill. 132 (1911), at page 137, the Court stated as follows:

"A school within the meaning of the constitutional provision, is a place where systematic instruction in useful branches is given by methods common to schools and institutions of learning which would make the place a school in the common acceptance of the word."

In *People ex rel. Brenza v. Turnverein Lincoln*, 8 Ill.2d 188 (1956), citing a Minnesota case, the Court said:

"It seems clear from the foregoing that this constitutional tax exemption for private educational institutions was intended to extend only to those private institutions which provide at least some substantial part of the educational training which otherwise would be furnished by the various publicly supported schools...which to such extent, thereby lessen the tax burden imposed upon our citizens as the result of our public educational system."

In *Coyne Electrical School v. Paschen*, 12 Ill.2d 387 (1957), the Court reaffirmed these two tests and the decisions in the previously cited cases, and stated as follows:

"On the basis of the foregoing decisions it is manifest that two things are necessary to qualify a private institution for tax exemption as a school: first, a course of study which fits into the general scheme of education founded by the State and supported by public taxation; second, a course of study which substantially lessens what would otherwise be a governmental function and obligation."

Applicant's short educational courses are all post-graduate courses lasting two days or less, which are not part of a systematic course of study. Applicant, in its brief, cites the case of *Illinois College of Optometry v. Lorenz*, 21 Ill.2d 219 (1961). That case is distinguishable on its facts from the case here in issue. In that case, the Court found that the College of Optometry offered a systematic course of study, including courses similar to the University of Illinois Medical School courses concerning the specialty of ophthalmology. In this case, the evidence clearly shows that applicant's courses are post-graduate courses, which are two days or less in duration, and not part of a systematic course of study.

The applicant, in its brief, also cited the case of *Association of*

American Medical Colleges v. Lorenz, 17 Ill.2d 125 (1959). That case is also distinguishable from the case here in issue. In the Association of American Medical Colleges case, the applicant was a not-for-profit corporation whose members included medical schools throughout the country. The Association's functions included publishing a directory containing admission requirements and other information about member schools; sponsoring admission tests; performing placement functions; and appraising the curricula of medical schools and colleges. In allowing the tax exemption for the Association's property, the Supreme Court noted that the functions to which the property was devoted, were those that would afford exemption if conducted separately by the member institutions. The Court concluded that where the functions themselves qualify for exemption, it did not matter that they were performed by a separate organization rather than the respective members. In this case, the applicant is not functioning on behalf of tax-exempt entities, which was the case in the Association of American Medical Colleges case.

This case, I conclude, is very similar to the case of American College of Chest Physicians v. Department of Revenue, 202 Ill.App.3d 59 (1st Dist. 1990), in which the Court determined that the American College of Chest Physicians did not qualify for exemption as a school.

In the case of People v. Chicago Title and Trust Co., 75 Ill.2d 479 (1979), the Court held that the holder of the beneficial interest in a land trust was the owner of the property for real estate tax purposes. I therefore conclude that the applicant was the owner of this parcel, for real estate tax purposes during the period January 14, 1992, through December 31, 1992.

Based on the foregoing, I conclude that the applicant owned the parcel here in issue and the building thereon, during the period January 14, 1992, through December 31, 1992. I further conclude that the applicant did not

qualify as a school during the period January 14, 1992, through December 31, 1992. Finally, I conclude that the applicant did not use the parcel here in issue and the building thereon, for school purposes during the period January 14, 1992, through December 31, 1992.

I therefore recommend that Cook County parcel No. 07-13-101-003-0000 be placed back on the tax rolls for the period January 14, 1992, through December 31, 1992.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge

August , 1995